

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

OCT 11 2010

DEPARTMENT OF REAL ESTATE
By *L. Frost*

7 DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9
10 *In the Matter of the Application of*
11 PHILLIP WANG

) No. H-10939 SF
)
)

) **STIPULATION AND**
) **WAIVER**
)

13 Respondent)
14)

15 It is hereby stipulated by and between PHILLIP WANG (hereinafter "Respondent") and Respondent's
16 attorney, FRANK M. BUDA, and the Complainant, acting by and through JASON D. LAZARK, Counsel
17 for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of
18 Issues filed on June 9, 2010 in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues and the
20 Statement to Respondent filed by the Department of Real Estate in connection with Respondent's
21 application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner
22 may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's
23 honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the
24 hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and
25 Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate
26 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meets
27 all the requirements for issuance of a real estate salesperson license. Respondent further understands that

1 by entering into this stipulation and waiver, Respondent will be stipulating that the Real Estate
2 Commissioner has found that Respondent has failed to make such a showing, thereby justifying the denial
3 of the issuance to Respondent of an unrestricted real estate salesperson license.

4 Respondent hereby admits that the allegations of the Statement of Issues filed against Respondent are
5 true and correct and requests that the Real Estate Commissioner in his discretion issue a restricted real
6 estate salesperson license to Respondent under the authority of Section 10156.5 of the Business and
7 Professions Code.

8 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving Respondent's
9 right to a hearing and the opportunity to present evidence at the hearing to establish Respondent's
10 rehabilitation in order to obtain an unrestricted real estate salesperson license if this Stipulation and Waiver
11 is accepted by the Real Estate Commissioner. However, Respondent is not waiving Respondent's right to a
12 hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation and
13 Waiver is not accepted by the Commissioner.

14 Respondent further understands that the following conditions, limitations, and restrictions will attach
15 to a restricted license issued by the Department of Real Estate pursuant hereto:

16 1. The license shall not confer any property right in the privileges to be exercised including the
17 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
18 to exercise any privileges granted under this restricted license in the event of:

19 a. Respondent's conviction (including a plea of guilty or nolo contendere) of a crime which
20 bears a substantial relationship to Respondent's fitness or capacity as a real estate licensee;
21 or

22 b. The receipt of evidence that Respondent has violated provisions of the California Real
23 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or
24 conditions attaching to this restricted license.

25 2. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a
26 certified letter to the Commissioner at the Department of Real Estate, Post Office Box 187000,
27 Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent's arrest, the crime

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for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

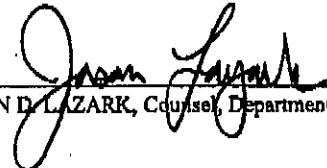
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to the restricted license until three years have elapsed from the date of issuance of the restricted license to Respondent.

4. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing broker on a form approved by the Department of Real Estate wherein the employing broker shall certify as follows:

a. That broker has read the Statement of Issues which is the basis for the issuance of the restricted license; and

b. That broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

9/15/10
Dated


JASON D. LAZARK, Counsel, Department of Real Estate

I have read the Stipulation and Waiver, have discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

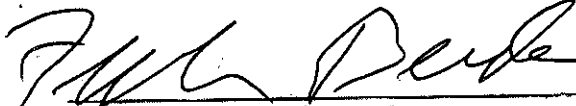
1 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
2 Waiver by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax
3 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
4 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt
5 of the faxed copy by the Department shall be as binding on Respondent as if the Department had received
6 the original signed Stipulation and Waiver.

7 9/16/2010
Dated


PHILLIP WANG, Respondent

8 I have reviewed the Stipulation and Waiver as to form and content and have advised my client
9 accordingly.

10 9-16-10
Dated


FRANK M. BUDA, Attorney for Respondent

12 * * *

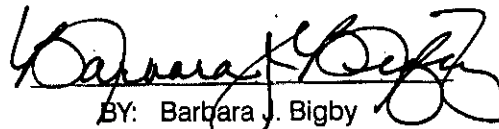
13 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by
14 Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and
15 truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a
16 restricted real estate salesperson license to Respondent.

17 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
18 Respondent, if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The
19 restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and
20 Waiver.

21 This Order is effective immediately.

22 IT IS SO ORDERED 10/4/2010

24 Jeff Davi
Real Estate Commissioner

26 
27 BY: Barbara J. Bigby
Chief Deputy Commissioner

1 Jason D. Lazark, Counsel (SBN 263714)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 General: (916) 227-0789
6 Direct: (916) 227-0822

FILED

JUN 09 2010

DEPARTMENT OF REAL ESTATE

By [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)

12 PHILLIP WANG,)

13 Respondent.)

No. H-10939 SF

STATEMENT OF ISSUES

14
15 The Complainant, E.J. HABERER II, in his official capacity as a Deputy Real
16 Estate Commissioner of the State of California, for Statement of Issues against PHILLIP
17 WANG (herein "Respondent"), alleges as follows:

18 1.

19 On or about March 3, 2009, Respondent made application to the Department of
20 Real Estate of the State of California for a real estate salesperson license.

21 2.

22 In response to Part D, Question 1 of said application, to wit: "Have you ever been
23 convicted of a misdemeanor or felony? Convictions expunged under Penal Code § 1203.4 must
24 be disclosed. However, you may omit minor traffic citations which do not constitute a
25 misdemeanor or felony," Respondent concealed and failed to disclose the conviction described
26 below in Paragraph 3.

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3.

On or about August 7, 1989, in the Superior Court of the State of California, County of San Francisco, Case Number 1177361, Respondent was convicted of Penal Code § 484(a)/490.5 (petty theft), a misdemeanor which bears a substantial relationship under Section 2910 of the California Code of Regulations to the qualifications, functions or duties of a real estate licensee.

4.

In failing to reveal the conviction described above in Paragraph 3, Respondent procured or attempted to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which constitutes cause for denial of Respondent's application for a real estate license under Sections 480(c) and 10177(a) of the Business and Professions Code (herein "the Code").

5.

Respondent's criminal conviction, as described above in Paragraph 3, constitutes grounds for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the Code.

WHEREFORE, Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of a real estate salesperson license to Respondent, and for such other and further relief as may be proper in the premises.


E.J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 2nd day of June 2010.